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09/641,866	08/18/2000	Charles E. Bernasconi		7547

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EXAMINER

TOMASZEWSKI, MICHAEL

ART UNIT	PAPER NUMBER
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3626

MAIL DATE	DELIVERY MODE
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07/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/641,866

Applicant(s)

BERNASCONI ET AL.

Examiner

Mike Tomaszewski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 88-92 and 97-102 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 88-92 and 97-102 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/21/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice To Applicant

This communication is in response to the amendment filed on 4/19/07. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office Action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/21/07 has been entered. Claims 88 and 97 have been amended and claims 88-92 and 97-102 are pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 88-92, 97-100, and 102 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Thompson et al.* (6,334,133; hereinafter *Thompson*) in view of *Mitsuoka et al.* (6,466,914; hereinafter *Mitsuoka*).

(A) As per claim 88, *Thompson* discloses a system comprising:

- (1) a substitute fulfillment database having staff data records which include information about certifications of the teacher, schedule information of the teacher, and work duties of the teacher (reads on "an employee database having information about qualifications of a plurality employees") (Fig. 3, col. 8 lines 15-63), which include information on certifications of substitute teachers (reads on "qualifications of a plurality of temporary employees") (Fig. 3, col. 8 lines 15-63), wherein using the information in the database, a server (30) generates a listing of opportunities for replacement workers and makes the listing available through a web site interface (col. 10 lines 32-42) (reads on "the database having associations with web pages" and "a web page is associated with each of the temporary employees"), wherein the server maintains at least two interfaces, most preferably two world wide web interfaces, for access to the substitute fulfillment system via the Internet, wherein an interface or web site is directed towards client organizations, such as school districts, wherein an interface or web site is directed towards workers, and wherein another interface is directed towards replacement workers or substitute teachers, wherein a substitute teacher is able to use a web site interface and home based computer to access and select listings of opportunities for substitute teachers (Fig. 1,

3-10, col. 6 lines 3-38, col. 8 lines 15-63, col. 9 lines 1-23, col. 10 lines 21-42, col. 11 lines 16-30, col. 12 lines 1-17 and lines 33-36);

- (2) a substitute fulfillment database having information about a plurality of absent teachers and information about the criteria for being an appropriate substitute teacher for the absent teacher (Fig. 3, col. 8 lines 15-63) (reads on "a position database having information about a plurality of positions and qualifications for positions");
- (3) a server (Fig. 1) configured for:
 - (a) providing and updating the substitute fulfillment database with information about a teacher's preferred substitute teachers using an applet, which collects the information, wherein the applet is transmitted to the communications and processing server (reads on "preference message"), wherein the preferred substitute teachers would substitute for a particular teacher when the teacher is absent (reads on "open position") (col. 7 line 19 to col. 8 line 63) (reads on "updating information about an open position in response to a preference message requesting that a specific open position be offered to at least one preferred temporary employee); and

- (b) storing in a data record a list of preferred substitutes (Fig. 3, col. 8 lines 15-63), wherein the substitute fulfillment system locates the list to replace an absent worker, wherein the substitute fulfillment system then contacts the replacements who are on the list (col. 9 line 42 to col. 10 line 7) (reads on “notifying each preferred temporary employee”).

Thompson fails to expressly disclose a web page being made available to client computers via “web browser programs,” notifying each preferred temporary employee “who meets the qualifications of the specific open position” and “posting information about the specific open position to the web pages associated with each preferred temporary employee and the specific open position being specially marked thereby differentiating the specific open position from open positions that the temporary worker is qualified to fill.”

Mitsuoka discloses the job-provider client and the contractor client using a WWW-browser (col. 6 lines 51-62). *Mitsuoka* discloses sending a job offer notification to only those contractors (reads on “temporary employee”) that have at least a certain aptitude value (reads on “qualifications of the specific open position”) necessary for the job (col. 11 lines 21-27).

As per the recitation of “posting information about the specific open position to the web pages associated with each preferred temporary employee and the specific open position being specially marked thereby differentiating the specific open position

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from open positions that the temporary worker is qualified to fill," *Mitsuoka* discloses a broker site accessed over the world wide web or internet, wherein when the contractor client has received a job offer notification, the contractor can access the broker site with the contractor client to check an offered job description on-screen and decide whether to apply for the job or not (reads on "posting information about the specific open position to the web pages associated with each preferred temporary employee") (Fig. 6, col. 1 lines 25-28, 39-46, col. 6 line 27 to col. 7 line 9, col. 7 line 65 to col. 8 line 5, col. 8 line 64 to col. 9 line 12).

As per the recitation of "the specific open position being specially marked thereby differentiating the specific open position from open positions that the temporary worker is qualified to fill," the Examiner considers the job offer notification in Figure 6 to be a form of specially marking the specific open position.

As per the recitation of "preferred temporary employees," *Mitsuoka* discloses that the job offer notification is made based on the schedules of the contractors and is only offered to those contractors whose schedules are free (col. 10 lines 2-50). Further, *Mitsuoka* discloses that the job offer notification is made based on the aptitude values of respective contractors, wherein the aptitude value is determined based on the results of jobs that have been contracted before, wherein a job provider evaluates the contractor's work as part of the aptitude value, wherein the job provider assigns a desired aptitude value for a contractor than then the job offer notification is sent out only to contractors who have at least the aptitude necessary for the job (col. 10 line 52 to col. 11 line 35, col. 11 lines 51-58, col. 13 lines 31-47, col. 14 lines 53-60). It is further noted that

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Mitsuoka discloses notifying contractors of jobs through email using the broker (Fig. 1, col. 6 line 27 to col. 7 line 9).

As per the recitation of “web pages associated with each preferred temporary employee,” the Examiner respectfully submits that accessing the broker site by the contractor to view job offer notifications that are specific to the contractor based on the contractor’s schedule or aptitude is considered to be a form of “web pages associated with each preferred temporary employee.”

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of *Mitsuoka* within the system of *Thompson* with the motivation of notifying only those contractors that are available or have the required aptitude thus reducing the amount of data that is transmitted (*Mitsuoka*: col. 10 lines 42-50 and col. 11 lines 41-50).

(B) As per claim 89, *Thompson* discloses the server generating a listing of opportunities for replacement workers and making the listing available through a web site interface which is accessible to replacement workers, wherein the workers can select an assignment (col. 10 lines 32-42) (reads on “wherein each web page associated with a temporary employee lists each open position that the temporary employee is able to accept”).

(C) As per claims 90-91, *Thompson* discloses the server generating a listing of opportunities for replacement workers and making the listing available through a web

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site interface which is accessible to replacement workers, wherein the workers can select an assignment (col. 10 lines 32-42).

Thompson fails to expressly disclose listing only the open positions that the temporary employee is qualified to fill.

Mitsuoka discloses the contractor accessing a broker site over the Internet or WWW, where the contractor access job offer notifications that transmitted to the contractor based on the contractor's schedule and based on the contractor's aptitude (Fig. 6, col. 1 lines 25-28, 39-46, col. 6 line 27 to col. 7 line 9, col. 7 line 65 to col. 8 line 5, col. 8 line 64 to col. 9 line 12, (col. 10 lines 2-50, col. 10 line 52 to col. 11 line 35, col. 11 lines 51-58, col. 13 lines 31-47, col. 14 lines 53-60).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of *Mitsuoka* within the system of *Thompson* with the motivation of notifying only those contractors that are available or have the required aptitude thus reducing the amount of data that is transmitted (*Mitsuoka*: col. 10 lines 42-50 and col. 11 lines 41-50).

As per the recitation of "pass[ing] through a filter that filters out open positions for which the absent employee has rejected the temporary employee," the Examiner respectfully submits that *Mitsuoka's* disclosure of a broker program receiving job offers from job offer providers, referring to the aptitude values and the desired conditions of the contractors stored in the contractor database, retrieving the contractors fulfilling certain conditions (reads on "a filter that filters out open positions"), and then transmits job offer notifications only to those employees that meet the conditions, wherein the aptitude values are based on evaluation of the contractor's work by the job provider (Fig. 21, col. 10 line 52 to col. 11 line 40, col. 13 lines 41-55, col. 14 lines 1-60) is a form of this feature. Also, note the interpretations of the prior art discussed above under the 35 U.S.C. § 112 rejections.

(D) As per claim 92, *Thompson* discloses the substitute worker being a substitute teacher (col. 8 lines 14-63).

(E) Method claims 97-100 and 102 repeat the subject matter of system claims 88-92, respectively, as a series of steps rather than as a set of system elements. As the underlying system elements of claims 88-92 have been shown to be fully disclosed by the collective teachings of *Thompson* and *Mitsuoka* in the above rejections of claims 88-92, it is readily apparent that the system disclosed collectively by *Thompson* and *Mitsuoka* includes the system elements to perform these method steps.

As such, these limitations are rejected for the same reasons given above for system claims 88-92, and incorporated herein.

3. Claim 101 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Thompson* in view of *Mitsuoka*, as applied to claim 97, and further in view of *Thomas et al.* (6,301,574; hereinafter *Thomas*).

(A) As per claim 101, *Thompson* discloses storing a personal identification number in a data record for both the substitute teacher/replacement worker and the teacher/absent worker (col. 8 lines 24-26).

As discussed above, *Thompson* also discloses a web site interface for substitute teachers (col. 6 lines 24-38 and col. 10 lines 32-42). Further, *Thompson* discloses

allowing a replacement work to access a web site interface to view listings of opportunities for the replacement workers, wherein a web site is preferably secure (col. 9 lines 9-13, col. 10 lines 32-42).

However, *Thompson* and *Mitsuoka* do not expressly disclose receiving at least one pass code and verifying the received at least one pass code. *Thomas* discloses a contractor logging onto a database to access web pages, wherein the contractor is required to enter a password to access the database (Fig. 1, 2A, 2B, 3, col. 3 line 61 to col. 4 line 39, col. 5 lines 7-20, col. 5 line 29 to col. 6 line 8). It is respectfully submitted that if access is provided to the database, the contractor must have entered the correct password, which is a form of verifying the password.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of *Thomas* within the method taught collectively by *Thompson* and *Mitsuoka* with the motivation of providing a secure means to access user information on a web site (*Thompson*; col. 9 lines 9-13), thus insuring the confidentiality of user information.

Response to Arguments

4. Applicant's arguments filed on 19 April 2007 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below in the order in which they appear in the response filed on 19 April 2007.

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(A) On pages 3-5 of the response filed on 19 September 2007, Applicant argues that the prior art fails to teach, "posting information about the specific open position to the web pages associated with each preferred temporary employee and the specific open position being specially marked thereby differentiating the specific open position from open positions that the temporary worker is qualified to fill."

In response, the Examiner respectfully submits that the combined teachings of *Thompson* and *Mitsuoka* teach Applicant's feature of "the specific open position being specially marked." *Mitsuoka* discloses a broker site accessed over the world wide web or internet, wherein when the contractor client has received a job offer notification, the contractor can access the broker site with the contractor client to check an offered job description on-screen and decide whether to apply for the job or not (Fig. 6, col. 1 lines 25-28, 39-46, col. 6 line 27 to col. 7 line 9, col. 7 line 65 to col. 8 line 5, col. 8 line 64 to col. 9 line 12).

As per the recitation of "the specific open position being specially marked thereby differentiating the specific open position from open positions that the temporary worker is qualified to fill," the Examiner considers the job offer notification in Figure 6 to be a form of specially marking the specific open position.

The Examiner respectfully submits that Figure 6 and the other citations provided (col. 1 lines 25-28, 39-46, col. 6 line 27 to col. 7 line 9, col. 7 line 65 to col. 8 line 5, col. 8 line 64 to col. 9 line 12) teach a form of specially marking an open position. This interface in Figure 6 shows an open position for a job and it is "specially marked thereby differentiating the specific open position from open positions that the temporary worker

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is qualified to fill" because it is sent to the contractor based on a contractor's email address. The email also is targeted to a specific contractor in some embodiments based on the contractor's aptitude values, wherein the aptitude value is determined based on the results of jobs that have been contracted before, wherein a job provider evaluates the contractor's work as part of the aptitude value, wherein the job provider assigns a desired aptitude value for a contractor than then the job offer notification is sent out only to contractors who have at least the aptitude necessary for the job (col. 10 line 52 to col. 11 line 35, col. 11 lines 51-58, col. 13 lines 31-47, col. 14 lines 53-60). This is also a form of a "specially marked" open position.

It is further noted that Mitsuoka discloses notifying contractors of jobs through email using the broker (Fig. 1, col. 6 line 27 to col. 7 line 9). As per the recitation of "web pages associated with each preferred temporary employee," the Examiner respectfully submits that accessing the broker site by the contractor to view job offer notifications that are specific to the contractor based on the contractor's schedule or aptitude is considered to be a form of "web pages associated with each preferred temporary employee." It is also noted that there is no specific definition of what a "specially marked" open position is, and thus the Examiner has given this limitation the broadest reasonable interpretation.

Thus, based on the teachings of *Mitsuoka*, the Examiner respectfully submits Applicant's claimed feature of a specific open position being specially marked is taught by the applied prior art.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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